






<p>1 asked, it's fair to assume that you've understood --</p> <p>2 understood it, correct?</p> <p>3 A. Correct.</p> <p>4 Q. What did you do to prepare for today's</p> <p>5 deposition?</p> <p>6 A. My attorney prepared me.</p> <p>7 Q. Okay. And I'm not asking you to tell me what</p> <p>8 your attorney told you. Okay?</p> <p>9 A. Of course.</p> <p>10 Q. Okay. And so you met with your attorney about</p> <p>11 the deposition, correct?</p> <p>12 A. Correct.</p> <p>13 Q. For about how long?</p> <p>14 A. Two hours about.</p> <p>15 Q. And when and where was that?</p> <p>16 A. What day was -- the 19th.</p> <p>17 Q. Of this month?</p> <p>18 A. Yes.</p> <p>19 Q. And for about how long? Oh, I think you said</p> <p>20 two hours, right?</p> <p>21 A. Yes.</p> <p>22 Q. Sorry. Wrong question. And where was that?</p> <p>23 A. Here.</p> <p>24 Q. At the offices we're in right now?</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 10</p>	<p>1 attorney, about today's deposition?</p> <p>2 A. No.</p> <p>3 Q. Did you bring any documents with you today?</p> <p>4 A. No.</p> <p>5 Q. What's your current address?</p> <p>6 A. 2500 South Ware Road.</p> <p>7 Q. Ware? W-A-R-E?</p> <p>8 A. Yes. W-A-R-E.</p> <p>9 Q. And is that a house?</p> <p>10 A. It's an apartment.</p> <p>11 Q. And what's the apartment number?</p> <p>12 A. Number seven.</p> <p>13 Q. And is that in Edinburg?</p> <p>14 A. McAllen.</p> <p>15 Q. And how long have you lived at that address?</p> <p>16 A. 20 years.</p> <p>17 Q. What's the highest education -- what's the</p> <p>18 highest level of education -- excuse me, that you've</p> <p>19 achieved?</p> <p>20 A. Second semester high school equivalent to</p> <p>21 Mexico preparatory school.</p> <p>22 Q. And why are you suing Delia's?</p> <p>23 A. For my dismissal -- my termination.</p> <p>24 Q. And that's the only reason, correct? Treated</p> <p>25 unfairly?</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. Okay. Did you review any documents in</p> <p>2 preparation for today's deposition?</p> <p>3 A. No.</p> <p>4 Q. Other than you and your attorney, was there</p> <p>5 anyone else there in that preparation?</p> <p>6 A. Yes.</p> <p>7 Q. And who was that?</p> <p>8 A. Five more people.</p> <p>9 Q. And who were they?</p> <p>10 A. My fellow workers.</p> <p>11 Q. Can you tell us their names, please?</p> <p>12 A. Luis.</p> <p>13 Q. And -- and if you could include their last name</p> <p>14 also, please?</p> <p>15 A. I do not know all of their last names.</p> <p>16 Q. Okay. Fair enough.</p> <p>17 A. Miguel, Armando, Ezequiel -- I think. And who</p> <p>18 else? And myself. But I'm missing one. Well, then</p> <p>19 maybe it was just us.</p> <p>20 Q. Okay.</p> <p>21 A. I don't recall the other person.</p> <p>22 Q. Okay. Did you review any documents in</p> <p>23 preparation for today's deposition?</p> <p>24 A. No.</p> <p>25 Q. Have you spoken to anyone, other than your</p> <p style="text-align: right;">Page 11</p>	<p>1 A. Well, it was not just my dismissal, but also</p> <p>2 because I felt discriminated -- and discriminated and</p> <p>3 treat unfairly.</p> <p>4 MR. QUEZADA: Well, she didn't say treated</p> <p>5 unfairly. I asked.</p> <p>6 A. Yeah. For me, it was like being fired and</p> <p>7 discriminated.</p> <p>8 Q. (BY MR. QUEZADA) Okay. So let me -- let me --</p> <p>9 any other reason?</p> <p>10 A. In my case.</p> <p>11 Q. Is there any other reason or -- just those two.</p> <p>12 It's about the termination and you feeling</p> <p>13 discriminated, right?</p> <p>14 A. Well, at that time, yes. But the other word</p> <p>15 that I was looking for -- I felt discriminated but the</p> <p>16 word I was looking for is -- I felt threatened.</p> <p>17 Q. Okay. So that completes the reasons that</p> <p>18 you're suing Delia's, correct?</p> <p>19 A. Yes.</p> <p>20 Q. How did you come to join this lawsuit?</p> <p>21 A. Well, for the same reason, you know, that</p> <p>22 powerlessness that we felt -- well, actually, that I</p> <p>23 felt powerless. So that's why I joined this lawsuit.</p> <p>24 Q. Well, let me ask you a better question. Okay?</p> <p>25 A. Okay.</p> <p style="text-align: right;">Page 13</p>

<p>1 Q. Can you tell us when you had to do that? Open 2 the stores.</p> <p>3 A. Well, when I was told to open the store.</p> <p>4 Q. Fair enough. Let me ask a better question.</p> <p>5 A. Okay.</p> <p>6 Q. Do you recall any dates when you had to open 7 the store?</p> <p>8 A. Not -- okay. Well, not the dates, I don't -- I 9 don't recall. But in December, for instance, they would 10 ask me to open the door -- I mean, open the store. But 11 they were not just in December, there were other 12 occasions that they simply ordered me to open the store.</p> <p>13 Q. Okay. If we think -- I guess I don't know that 14 I want to go month by month. But perhaps, that's the 15 best way of doing it. Do you think that you opened the 16 store more frequently in December than in other months?</p> <p>17 A. No. It could be any month.</p> <p>18 Q. So can you tell us about how many times per 19 month you'd have to open the store?</p> <p>20 A. I have no idea. I don't remember.</p> <p>21 Q. Do you recall at what time you would open the 22 store when you would have to?</p> <p>23 A. At opening time, at seven. And before, we used 24 to open at 6:00 a.m.</p> <p>25 Q. And that -- would that be the time that</p> <p style="text-align: right;">Page 26</p>	<p>1 using a time clock that you would either punch in with a 2 code, or use your fingerprint to access?</p> <p>3 A. Oh, yes.</p> <p>4 Q. How -- how would you do that? Did you use your 5 fingerprint or a code?</p> <p>6 A. With the fingerprint.</p> <p>7 Q. Did you ever have a code at any time?</p> <p>8 A. To check in? To punch in?</p> <p>9 Q. To punch in, yes.</p> <p>10 A. Not for that.</p> <p>11 Q. Okay. What was it for? For like the cash 12 register or something like that?</p> <p>13 A. Which?</p> <p>14 Q. The code.</p> <p>15 A. Oh, for the alarm system, when you open up the 16 store.</p> <p>17 Q. Got it. Okay. And you knew that when you 18 got -- well, when you got to work, you'd punch in with 19 your finger, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And when work was done, you'd punch out with 22 your finger as well?</p> <p>23 A. That is correct.</p> <p>24 Q. Did you have lunch breaks?</p> <p>25 A. Yes. 30 minutes.</p> <p style="text-align: right;">Page 28</p>
<p>1 customers started coming in or would customers come in 2 later?</p> <p>3 A. Well, when we opened at seven, they would begin 4 to come in a little later. But when we opened at six, 5 they would come at seven. So it's about an hour between 6 the time we open and when the customers come in.</p> <p>7 Q. Okay. And I guess you had a key to the 8 restaurant?</p> <p>9 A. That is correct.</p> <p>10 Q. Any other tasks or duties as a team leader that 11 we haven't covered?</p> <p>12 A. No. I think that -- that's all.</p> <p>13 Q. Okay. Around 2017, you recall -- did you -- 14 I'm sorry. Let me take a step back. Did you ever hire 15 or fire any employees?</p> <p>16 A. No.</p> <p>17 Q. Did you ever discipline employees?</p> <p>18 A. No.</p> <p>19 Q. Did you ever approve vacation time or anything 20 like that?</p> <p>21 A. No.</p> <p>22 Q. Okay. So do you recall in 2017, Delia's 23 started using a timekeeping system?</p> <p>24 A. What do you mean timekeeping?</p> <p>25 Q. Okay. So do you recall in 2017, you started</p> <p style="text-align: right;">Page 27</p>	<p>1 Q. And when you had that lunch break, you'd punch 2 out with your finger and the punch back in when it was 3 over, correct?</p> <p>4 A. Yes. That is correct.</p> <p>5 Q. Did you have any other breaks during the day?</p> <p>6 A. No.</p> <p>7 Q. The tasks that we discussed as a team leader, 8 or as a cook, those were tasks that you performed once 9 you punched in and you performed them until you punched 10 out, correct?</p> <p>11 A. That is correct.</p> <p>12 Q. And at no time was somebody clocking in or out 13 for you, correct?</p> <p>14 A. No. It is correct.</p> <p>15 Q. And you never punched in for anyone or never 16 punched out for anyone?</p> <p>17 A. No.</p> <p>18 Q. And is that because you knew that Delia's 19 required you to accurately record and report only your 20 time?</p> <p>21 A. Yeah. Each one of us checked individually.</p> <p>22 Q. And, again, just to make sure that you 23 understood the question. You understood that Delia's 24 required you to accurately record and report your own 25 time, correct?</p> <p style="text-align: right;">Page 29</p>

<p>1 A. Yes. That's a company rule.</p> <p>2 Q. And it's a rule that you always followed while</p> <p>3 working for Delia's, right?</p> <p>4 A. Of course.</p> <p>5 Q. And you received training on how to punch in</p> <p>6 and punch out with the fingerprint system?</p> <p>7 A. Yes. They taught us.</p> <p>8 Q. Okay. Do you recall who did that?</p> <p>9 A. The manager. I don't recall which one of the</p> <p>10 managers, but it was a manager.</p> <p>11 Q. And after you received that training, you felt</p> <p>12 comfortable using the time system?</p> <p>13 A. Yeah. It was -- it was fine. It was good.</p> <p>14 Q. Okay. And the system, it was called the Focus</p> <p>15 system, right?</p> <p>16 A. I don't know what the name of it was.</p> <p>17 Q. Okay. Who was your supervisor?</p> <p>18 A. I had a lot of them. Which one?</p> <p>19 Q. Who was -- who was the supervisor you had last?</p> <p>20 A. Jesus Pena.</p> <p>21 Q. Okay. I feel the same way. Except my bosses</p> <p>22 are a 5 year old and a 2 year old. Okay. Do you have</p> <p>23 any records that you kept, be it a calendar or a</p> <p>24 notepad, of any hours worked by you at Delia's?</p> <p>25 A. That if I have records?</p> <p style="text-align: right;">Page 30</p>	<p>1 correction? Meaning you felt comfortable going forward</p> <p>2 and saying, hey, this correction needs to be made.</p> <p>3 A. Yes.</p> <p>4 Q. And you were never told not to do that, right?</p> <p>5 A. No.</p> <p>6 Q. No they did not, right?</p> <p>7 A. No. They never told me.</p> <p>8 Q. Okay. Before your last supervisor, who was</p> <p>9 the -- who was your supervisor before the last one? I'm</p> <p>10 sorry.</p> <p>11 A. Supervisor?</p> <p>12 Q. Yes.</p> <p>13 A. Monica Juarez.</p> <p>14 Q. And at no point while using the time keeping</p> <p>15 system were you ever confused about how to use it,</p> <p>16 correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. You mentioned copies of pay stubs. Do</p> <p>19 you remember that?</p> <p>20 A. Yes.</p> <p>21 Q. Where are those?</p> <p>22 A. At home.</p> <p>23 Q. Okay. Is there any reason you wouldn't be able</p> <p>24 to provide those for us?</p> <p>25 A. Yes. Because their mine.</p> <p style="text-align: right;">Page 32</p>
<p>1 Q. Yes.</p> <p>2 A. From now? Or from then? Or before? Or how --</p> <p>3 or what year?</p> <p>4 Q. Do you have any records?</p> <p>5 A. Well, I have all of my check stubs. And all of</p> <p>6 the schedules and hours are there.</p> <p>7 Q. Okay. And you've looked at those check stubs?</p> <p>8 A. Yes. They were mine.</p> <p>9 Q. And you reviewed them when you received them?</p> <p>10 A. Yes.</p> <p>11 Q. And they were accurate and correctly reflected</p> <p>12 the time worked by you?</p> <p>13 A. Well, yes. But occasionally the machine would</p> <p>14 make a mistake and you would be missing hours.</p> <p>15 Q. That's right. And when those occasions</p> <p>16 happened, you'd let someone know and it would get fixed;</p> <p>17 is that right?</p> <p>18 A. Yes.</p> <p>19 Q. And you did that every time you noticed an</p> <p>20 error, correct?</p> <p>21 A. Of course.</p> <p>22 Q. And who would you tell? Someone in human</p> <p>23 resources? Your supervisor?</p> <p>24 A. The manager.</p> <p>25 Q. And you never had any problem making that</p> <p style="text-align: right;">Page 31</p>	<p>1 Q. Okay. Fair enough. Let me ask you this. Any</p> <p>2 reason why we wouldn't be able to make a copy and give</p> <p>3 you back the originals?</p> <p>4 A. Okay. Well, because then my attorney has them.</p> <p>5 Q. Fair enough. Any other records of time worked</p> <p>6 that you've got, including anything that you wrote down</p> <p>7 on a calendar or a notebook? Or is the check stubs all</p> <p>8 you've got?</p> <p>9 A. Well, yes. For the earlier years.</p> <p>10 Q. Okay. And what years would that be?</p> <p>11 A. Well, from the time when they didn't pay us</p> <p>12 with a check, and they paid us with cash.</p> <p>13 Q. And you started receiving a check in 2017,</p> <p>14 correct?</p> <p>15 A. No. Some earlier -- some years before, we also</p> <p>16 received checks.</p> <p>17 Q. Okay. But in 2017, you only received a</p> <p>18 paycheck?</p> <p>19 A. Yes.</p> <p>20 Q. And that was for all your hours worked?</p> <p>21 A. Yes.</p> <p>22 Q. There was no cash payment?</p> <p>23 A. No. Because they were paying by check, but</p> <p>24 before, yes.</p> <p>25 Q. And that was before 2017, correct?</p> <p style="text-align: right;">Page 33</p>

<p>1 I, OLGA PEREZ, have read the foregoing 2 deposition and hereby affix my signature that same is 3 true and correct, except as noted above. 4 5 _____ 6 OLGA PEREZ 7 8 THE STATE OF TEXAS ) 9 COUNTY OF _____ ) 10 11 Before me, _____, on 12 this day personally appeared OLGA PEREZ, known to me (or 13 proved to me under oath or through 14 _____)(description of identity card or 15 other document) to be the person whose name is 16 subscribed to the foregoing instrument and acknowledged 17 to me that they executed the same for the purposes and 18 consideration therein expressed. 19 Given under my hand and seal of 20 office this _____ day of _____, 2024. 21 22 _____ 23 Notary Public in and for the State of Texas 24 25 Job No. HOU6734283</p> <p style="text-align: right;">Page 82</p>	<p>1 I further certify that pursuant to 2 FRCP Rule 30(f)(1) that the signature of the deponent: 3 4 _____X_____ was requested by the deponent or a 5 party before the completion of the deposition and that 6 the signature is to be before any notary public and 7 returned within 30 days from date of receipt of the 8 transcript. If returned, the attached Changes and 9 Signature Page contains any changes and the reasons 10 therefor; 11 12 _____ was not requested by the deponent 13 or a party before the completion of the deposition. 14 I further certify that I am neither 15 counsel for, related to, nor employed by any of the 16 parties or attorney in the action in which this 17 proceeding was taken, and further that I am not 18 financially or otherwise interested in the outcome of 19 the action. 20 21 Certified to by me this July 11, 2024. 22  23 Priscilla Maldonado, CSR 12025 24 Expiration Date: 06-30-2025 25 Veritext Legal Solutions Firm Registration No. 571 300 Throckmorton Street, Suite 1600 Fort Worth, Texas 76102 817-336-3042</p> <p style="text-align: right;">Page 84</p>
<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF TEXAS 3 MCALLEN DIVISION 4 JUANA CRUZ, OFELIA ) 5 BENAVIDES, JOSE ELIAS ) 6 N.G. GABRIELA VELAZQUEZ, ) 7 HELESIO CRUZ, ANGELICA ) 8 CHAVEZ, CONCEPCION PEREZ, ) 9 OLGA PEREZ, MAVRIGO ) 10 SAENZ, JORGE MAOLEON, ) 11 HECTOR SANCHEZ, HECTOR ) 12 GONZALEZ, YESSY PEREZ ) 13 MARTINEZ, MARIA DE ) 14 LOURDES CRUZ, RESENDO ) 15 LIEVANOS, ELIZABETH LARA, ) 16 LUIS ALBERTO ZUNIGIA ) 17 CASTILLO, MIGUEL ) 18 CABALLERO SANCHEZ, CARLOS ) CASE NO: 7:23-CV-00343 19 DANIEL LOPEZ, GILDA ) 20 RIVAS, ARMANDO MORALES DE ) JURY DEMANDED 21 LLANO, LAZARO GARCIA, ) 22 MARIA DE JESUS MEDINA, ) 23 RICHARD ESQUIVEL, RAFAEL ) 24 SANCHEZ, GUILLERMO RUIZ, ) 25 ROSA QUINTANILLA, ) PLAINTIFFS, ) VS. ) DELGAR FOODS, LLC A/K/A ) DELIA'S TAMALES, ) DEFENDANT. ) ***** REPORTER'S CERTIFICATION DEPOSITION OF OLGA PEREZ June 26, 2024 I, Priscilla Maldonado, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following: That the witness, OLGA PEREZ, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;</p> <p style="text-align: right;">Page 83</p>	<p>1 RICARDO GONZALEZ 2 RIC@OXFORDGONZALEZ.COM 3 July 11, 2024 4 RE: Cruz, Juana, Et Al v. Delgar Foods LLC, Et Al. 5 6/26/2024, Olga Perez (#6734283) 6 The above-referenced transcript is available for 7 review. 8 Within the applicable timeframe, the witness should 9 read the testimony to verify its accuracy. If there are 10 any changes, the witness should note those with the 11 reason, on the attached Errata Sheet. 12 The witness should sign the Acknowledgment of 13 Deponent and Errata and return to the deposing attorney. 14 Copies should be sent to all counsel, and to Veritext at 15 errata-tx@veritext.com. 16 Return completed errata within 30 days from 17 receipt of testimony. 18 If the witness fails to do so within the time 19 allotted, the transcript may be used as if signed. 20 21 Yours, 22 Veritext Legal Solutions 23 24 25</p> <p style="text-align: right;">Page 85</p>